

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GEORGE T. PAETH and
MARGARET C. PAETH,

Plaintiffs,

v.

Case Number 08-13926
Honorable David M. Lawson

WORTH TOWNSHIP,

Defendant.

**ORDER DENYING PLAINTIFFS' MOTION FOR APPELLATE ATTORNEY'S FEES
AND COSTS AND DISBURSEMENT OF FUNDS FOR THE PAYMENT OF FUNDS**

The Court entered an amended judgment against the defendants on September 21, 2010. Shortly thereafter, the defendant moved for a new trial or remittitur. After the defendant's motion for new trial or remittitur was denied, the defendant filed a timely notice of appeal. On June 8, 2012, the court of appeals issued an opinion reversing the grant of summary judgment on the plaintiffs' due process violation; vacating the award of damages for that violation; and affirming the Court's judgment with regard to the plaintiffs' First Amendment violation, the award of damages for that violation, and the award of attorney's fees. The court of appeals has not issued a mandate yet. Presently, the matter is before the Court on the plaintiffs' motion for appellate attorney's fees and costs and disbursement of funds for the payment of funds.

The Court is without jurisdiction to entertain the plaintiffs' motion because the court of appeals has not issued a mandate. *Youghioghney & Ohio Coal Co. v. Milliken*, 200 F.3d 942, 951-52 (6th Cir. 1999) ("Although the issuance of the mandate is largely a formality, the court of appeals retains jurisdiction over the case until it issues, and the district court or agency whose order is being reviewed cannot proceed in the interim."). Therefore, the Court must deny the plaintiffs' motion.

Accordingly, it is **ORDERED** that the plaintiffs' motion for appellate attorney's fees and costs and disbursement of funds for the payment of funds [dkt. #114] is **DENIED WITHOUT PREJUDICE**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: June 21, 2012

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on June 21, 2012.

s/Deborah R. Tofil
DEBORAH R. TOFIL